



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

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DECISION OF THE BOARD

Mailed and Filed: MAY 23, 2023

IN THE MATTER OF:

Appeal Board No. 628755

PRESENT: MARILYN P. O'MARA, MEMBER

In Appeal Board No. 628754, the claimant appeals from the decision of the Administrative Law Judge filed March 29, 2023, which sustained the initial determination holding the claimant ineligible to receive benefits, effective September 5, 2022 through October 9, 2022, on the basis that the claimant did not comply with registration requirements.

In Appeal Board No. 628755, the claimant appeals from the decision of the Administrative Law Judge filed March 29, 2023, which sustained the initial determination holding the claimant ineligible to receive benefits, effective August 29, 2022 through September 4, 2022, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification.

In Appeal Board No. 628756, the claimant appeals from the decision of the Administrative Law Judge filed March 29, 2023, which sustained the initial determination holding the claimant ineligible to receive benefits, effective October 10, 2022 through January 1, 2023, on the basis that the claimant did not comply with registration requirements.

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant had top-secret clearance when he was in the

military. After completing his military service, he continued to use this clearance to perform short-term assignments for government contractors. He filed a claim for unemployment benefits while he was between jobs in 2021. The claimant collected benefits for a couple of months while he looked for a new assignment.

Subsequently, a member of the claimant's family became the subject of a criminal investigation. The claimant was included in the investigation. As a person with top-secret clearance, the claimant was required to report any contact he had with law enforcement. The claimant's top-secret clearance was suspended pending the outcome of the investigation. The claimant's employer placed him on a leave of absence beginning August 24, 2022. The claimant's manager told him not to claim unemployment benefits, as he would soon be back to work. She also told him that he was not eligible for unemployment benefits.

Months went by, and the claimant still was not back to work. The claimant had exhausted his savings. He went through the holidays with no income. Despite his manager's directions to him, he called the Department of Labor and found out he had been eligible for unemployment benefits the whole time. The claimant filed a new claim on January 7, 2023.

OPINION: The credible evidence establishes that the claimant separated from employment when his employer put him on an indefinite leave of absence without pay, effective August 24, 2022. At the time, his manager told him not to claim unemployment benefits because he would soon be back to work. In fact, the claimant went months without being returned to work. Thus, the manager misinformed the claimant regarding the status of his employment. These circumstances constitute good cause to excuse the claimant's failure to comply with registration and certification requirements (see *Matter of Maniace*, 88 AD2d 1025 [3d Dept 1982]; *Matter of Beck*, 72 AD2d 867 [3d Dept 1979]). Accordingly, we conclude that the claimant is eligible for benefits.

DECISION: The decisions of the Administrative Law Judge are reversed.

In Appeal Board Nos. 628754, 628755 and 628756, the initial determinations, holding the claimant ineligible to receive benefits, effective September 5, 2022 through October 9, 2022, on the basis that the claimant did not comply with registration requirements; holding the claimant ineligible to receive benefits,

effective August 29, 2022 through September 4, 2022, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive

benefits, effective October 10, 2022 through January 1, 2023, on the basis that the claimant did not comply with registration requirements, are overruled.

The claimant is allowed benefits with respect to the issues decided herein.

MARILYN P. O'MARA, MEMBER